

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

DAVID LEE QUINTANA,	)	
	)	
Petitioner,	)	4:02cv3194
	)	
vs.	)	MEMORANDUM AND ORDER
	)	
HAROLD W. CLARKE,	)	
	)	
Respondent.	)	

Before the court is filing no. 43 (second part), the Notice of Appeal filed by the petitioner, David Lee Quintana, who appeals the Memorandum and Order (filing no. 41) and Judgment (filing no. 42), dismissing his Petition for Writ of Habeas Corpus ("§ 2254 petition"), with prejudice, on the merits of his § 2254 claims. Also before the court is filing no. 45, a Memorandum by the Clerk of Court inquiring whether the petitioner will be proceeding in forma pauperis ("IFP") on appeal. Because the petitioner has previously been granted leave to proceed IFP in the district court, and because this appeal is taken in good faith, the petitioner may continue to proceed IFP on appeal pursuant to Fed. R. App. P. 24(a)(3). I have previously denied a Certificate of Appealability (filing no. 44).

THEREFORE, IT IS ORDERED:

1. That, pursuant to Fed. R. App. P. 24(a)(3), the petitioner will be proceeding in forma pauperis on appeal;
2. That a Certificate of Appealability has been denied (filing no. 44); and
3. That the Clerk of Court shall provide a copy of this Memorandum and Order and filing no. 44 to the parties and to the Eighth Circuit Court of Appeals, and the Clerk shall process the appeal to the Eighth Circuit.

DATED this 27th day of September, 2005.

BY THE COURT:

s/ WARREN K. URBOM  
United States Senior District Judge